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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/461,663	12/14/99	BARCLAY W	2997-1-3-1-4

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HM12/1023

EXAMINER

WARE, D

ART UNIT	PAPER NUMBER
1651	

DATE MAILED: 10/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/461,663

Applicant(s)

Barclay

Examiner

Ware

Art Unit

1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Aug 13, 2001

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 38-85 is/are pending in the application

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

5) ☒ Claim(s) 68-71, 79, and 83 is/are allowed.

6) ☒ Claim(s) 38-50, 53-60, 63-65, 75-78, 80-82, 84, and 85 is/are rejected.

7) ☒ Claim(s) 51, 52, 61, 62, 66, 67, and 72-74 is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other: \_\_\_\_\_

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Claims 38-85 are presented for reconsideration on the merits.

The amendment filed August 13, 2001, has been received and entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 38-50, 53-60, 63-65, 75-78, 80, 81-82 and 84-85 are rejected under 35 U.S.C. 103(a) as obvious over Cassidy et al., previously cited, in view of **newly cited** Somerville et al. .
2. Applicant's arguments filed August 13, 2001, have been fully considered but they are not persuasive because of the reasons set forth in the following newly applied art rejection:
3. Claims are newly drawn to method of reducing corrosion of a fermentor during growth of microorganisms wherein the method requires obtaining microorganisms from a saline environment.
4. Cassidy et al. is previously discussed in the last office action, May 8, 2001, note page 3.
5. Somerville et al. teach using saline water environment for treating a tank or container (i.e. fermentor) and further disclose adding a non-chloride sodium salt to reduce corrosion. Note column 5, lines 25-40.
6. The claimed subject matter differs from Cassidy et al. in that the microorganisms are not disclosed as being obtained from a saline environment.
7. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the teachings of the cited references, Cassidy and

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8. Sommerville, to obtain a method for reducing corrosion of a fermentor during growth of microorganisms in a saline fermentation medium. Sommerville clearly teach using and obtaining saline waters from an environment. Note columns 1-2, lines 5-15 and 20-55, respectively. To obtain microorganisms therefrom is clearly an obvious modification since such microorganisms are well known to be presented and contained by such environmental sources. To add this step of obtaining microorganisms from a saline environment is clearly suggested by the cited combination of newly applied references. Fermentation using non-chloride salts is clearly disclosed by Cassidy. To reduce corrosion using non-chloride salts in a container is clearly taught by Somerville. Thus, to use non-chloride salts in a fermentor to reduce the corrosion of the fermentor during fermentation is clearly suggested by the cited reference. One of skill would have been motivated to select for non-chloride salts because they are well known to reduce corrosion in a tank. Fermentation in a tank is clearly recognized by the cited prior art. Thus, to add non-chloride salts during fermentation therein to reduce corrosion during fermentation is an obvious modification of the cited prior art. One of skill would have been motivated to select for non-chloride salts for fermentation of microorganisms obtained from a saline environment. Therefore, in the absence of convincing and persuasive evidence to the contrary the claims are rendered prima facie obvious over the newly applied art rejection.

9. Claims 51-52, 61-62, 66-67 and 72-74 remain free of the cited prior art but remain objected to for those reasons of record. Further, claims 63-67 should be canceled for those reasons of record. Note page 4 of the last office action.

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10. Claims 68-71, 79 and 83 are allowable subject matter.
11. The rejected claims fail to be patentably distinguishable over the state of the art discussed above and cited on the enclosed PTO-892 Form. Therefore, these claims are properly rejected.
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is (703) 308-4245. The examiner can normally be reached on Mondays to Fridays from 9:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached on (703) 308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

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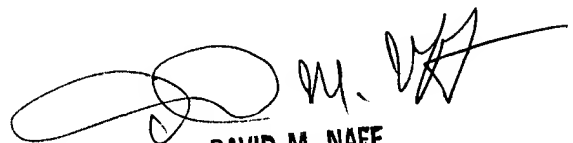
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.



Deborah K. Ware

October 19, 2001



DAVID M. NAFF  
PRIMARY EXAMINER  
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